

SUBCHAPTER IV. CONSERVATION OF MARINE AND ESTUARINE AND WILDLIFE RESOURCES.

Article 12.

General Definitions.

§ 113-127. Application of Article.

Unless the context clearly requires otherwise, the definitions in this Article apply throughout this Subchapter. (1965, c. 957, s. 2.)

§ 113-128. Definitions relating to agencies and their powers.

The following definitions and their cognates apply to powers and administration of agencies charged with the conservation of marine and estuarine and wildlife resources:

- (1), (2) Repealed by Session Laws 1979, c. 830, s. 1.
- (3) Department. – The Department of Environmental Quality.
- (4) Executive Director. – Executive Director, North Carolina Wildlife Resources Commission.
- (4a) Fisheries Director. – Director, North Carolina Division of Marine Fisheries of the Department of Environmental Quality who shall be qualified for the office by education or experience.
- (5) Inspector. – Marine fisheries inspector.
- (5a) Marine Fisheries Commission. – The Marine Fisheries Commission of the Department as established by Part 5D of Article 7 of Chapter 143B of the General Statutes.
- (5b) Marine Fisheries Inspector. – An employee of the Department, other than a wildlife protector, sworn in as an officer and assigned duties which include exercise of law enforcement powers under this Subchapter. All references in statutes, regulations, contracts, and other legal and official documents to commercial fisheries inspectors and to commercial and sports fisheries inspectors apply to marine fisheries inspectors.
- (6) Notice; Notify. – Where it is required that notice be given an agency of a situation within a given number of days, this places the burden on the person giving notice to make sure that the information is received in writing by a responsible member of the agency within the time limit.
- (7) Protector. – Wildlife protector.
- (8) Secretary. – Secretary of Environmental Quality.
- (9) Wildlife Protector. – An employee of the North Carolina Wildlife Resources Commission sworn in as an officer and assigned to duties which include exercise of law-enforcement powers.
- (10) Wildlife Resources Commission. – The North Carolina Wildlife Resources Commission as established by Article 24 of Chapter 143 of the General Statutes and Part 3 of Article 7 of Chapter 143B of the General Statutes. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1977, c. 512, s. 5; c. 771, s. 4; 1979, c. 388, s. 1; c. 830, s. 1; 1987, c. 641, s. 4; 1989, c. 727, s. 218(57); 1997-443, s. 11A.119(a); 1998-225, s. 1.1; 2015-241, s. 14.30(u), (v).)

§ 113-129. Definitions relating to resources.

The following definitions and their cognates apply in the description of the various marine and estuarine and wildlife resources:

- (1) Repealed by Session Laws 1979, c. 830, s. 1.
- (1a) Animals. – Wild animals, except when the context clearly indicates a contrary interpretation.
- (1b) Big Game. – Bear, wild turkey, and white-tailed deer.
- (1c) Birds. – Wild birds, except when the context clearly indicates a contrary interpretation.
- (1d) Boating and Fishing Access Area. – An area of land providing access to public waters and which is owned, leased, controlled, or managed by the Wildlife Resources Commission.
- (1e) Bushel. – A dry measure containing 2,150.42 cubic inches.
- (1f) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer).
- (2) Coastal Fisheries. – Any and every aspect of cultivating, taking, possessing, transporting, processing, selling, utilizing, and disposing of fish taken in coastal fishing waters, whatever the manner or purpose of taking, except for the regulation of inland game fish in coastal fishing waters which is vested in the Wildlife Resources Commission; and all such dealings with fish, wherever taken or found, by a person primarily concerned with fish taken in coastal fishing waters so as to be placed under the administrative supervision of the Department. Provided, that the Department is given no authority over the taking of fish in inland fishing waters. Except as provisions in this Subchapter or in regulations of the Marine Fisheries Commission authorized under this Subchapter may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fisheries apply to coastal fisheries.
- (3) Coastal Fishing. – All fishing in coastal fishing waters. Except as provisions in this Subchapter or in regulations of the Marine Fisheries Commission authorized under this Subchapter may make such references inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing apply to coastal fishing.
- (4) Coastal Fishing Waters. – The Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. Except as provisions in this Subchapter or changes in the agreement between the Marine Fisheries Commission and the Wildlife Resources Commission may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing waters apply to coastal fishing waters.
- (5) Crustaceans. – Crustacea, specifically including crabs, lobster, and shrimp.
- (5a) Deer. – White-tailed deer (*Odocoileus virginianus*), except when otherwise specified in this Chapter.
- (5b) Farmed Cervid. – Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.

- (5c) Feral Swine. – Free-ranging mammals of the species *Sus scrofa*.
- (6) Fisheries Resources. – Marine and estuarine resources and such wildlife resources as relate to fish.
- (7) Fish; Fishes. – All finfish; all shellfish; and all crustaceans.
- (7a) Fur-bearing Animals. – Beaver, mink, muskrat, nutria, otter, skunk, and weasel; bobcat, opossum, and raccoon when lawfully taken with traps.
- (7b) Game. – Game animals and game birds.
- (7c) Game Animals. – Bear, fox, rabbit, squirrel, white-tailed deer, and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon.
- (7d) Game Birds. – Migratory game birds and upland game birds.
- (8) Game Fish. – Inland game fish and such other game fish in coastal fishing waters as may be regulated by the Department.
- (8a) Game Lands. – Lands owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission for public hunting, trapping, or fishing.
- (9) Inland Fishing Waters. – All inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland or upstream from:
 - a. The dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission; or
 - b. North Carolina's boundary with another state.
- (10) Inland Game Fish. – Those species of freshwater fish, wherever found, and migratory saltwater fish, when found in inland fishing waters, as to which there is an important element of sport in taking and which are denominated as game fish in the regulations of the Wildlife Resources Commission. No species of fish of commercial importance not classified as a game fish in commercial fishing waters as of January 1, 1965, may be classified as an inland game fish in coastal fishing waters without the concurrence of the Marine Fisheries Commission.
- (10a) Joint Fishing Waters. – Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission in accordance with G.S. 113-132(e).
- (11) Marine and Estuarine Resources. – All fish, except inland game fish, found in the Atlantic Ocean and in coastal fishing waters; all fisheries based upon such fish; all uncultivated or undomesticated plant and animal life, other than wildlife resources, inhabiting or dependent upon coastal fishing waters; and the entire ecology supporting such fish, fisheries, and plant and animal life.
- (11a) Migratory Birds. – All birds, whether or not raised in captivity, included in the terms of conventions between the United States and any foreign country for the protection of migratory birds and the Migratory Bird Treaty Act, as defined and listed in Part 10 of Title 50 of the Code of Federal Regulations.
- (11b) Migratory Game Birds. – Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the following families:

- a. Anatidae (wild ducks, geese, brant, and swans);
- b. Columbidae (wild doves and pigeons);
- c. Gruidae (little brown cranes);
- d. Rallidae (rails, coots, and gallinules); and
- e. Scolopacidae (woodcock and snipe).

The Wildlife Resources Commission is authorized to modify this definition from time to time by regulations only as necessary to keep it in conformity with governing federal laws and regulations pertaining to migratory game birds.

- (11c) Migratory Waterfowl; Waterfowl. – Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the Family Anatidae (wild ducks, geese, brant, and swans).
- (11d) Nongame Animals. – All wild animals except game and fur-bearing animals.
- (11e) Nongame Birds. – All wild birds except game birds.
- (12) Nongame Fish. – All fish found in inland fishing waters other than inland game fish.
- (12a) Repealed by Session Laws 2004-160, s. 1, effective August 2, 2004.
- (12b) Repealed by Session Laws 2004-160, s. 1, effective August 2, 2004.
- (12c) Overfished. – The condition of a fishery that occurs when the spawning stock biomass of the fishery is below the level that is adequate for the recruitment class of a fishery to replace the spawning class of the fishery.
- (12d) Overfishing. – Fishing that causes a level of mortality that prevents a fishery from producing a sustainable harvest.
- (13) Private Pond. – A body of water arising within and lying wholly upon a single tract of privately owned land, from which fish cannot escape and into which fish cannot enter from public fishing waters at any time, except that all publicly owned ponds and lakes are classified as public fishing waters. In addition, the private owners of abutting tracts of land on which a pond not exceeding 10 acres is or has been established may by written agreement cooperate to maintain that pond as a private pond if it otherwise meets the requirements of this definition. If a copy of the agreement has been filed with the Wildlife Resources Commission and the pond in fact meets the requirements of this definition, it attains the status of private pond either 60 days after the agreement has been filed or upon the Commission's approving it as private, whichever occurs first.
- (13a) Public Fishing Waters; Public Waters. – Coastal fishing waters, inland fishing waters, or both.
- (13b) Public Hunting Grounds. – Privately owned lands open to the public for hunting under the terms of a cooperative agreement between the owner and the Wildlife Resources Commission.
- (13c) Raptor. – A migratory bird of prey authorized under federal law and regulations for the taking of quarry by falconry.
- (14) Shellfish. – Mollusca, specifically including oysters, clams, mussels, and scallops.
- (14a) Sustainable harvest. – The amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished.
- (14b) Upland Game Birds. – Grouse, pheasant, quail, and wild turkey.

- (15) Wild Animals. – Game animals; fur-bearing animals; feral swine; and all other wild mammals except marine mammals found in coastal fishing waters. In addition, this definition includes members of the following groups which are on the federal list of endangered or threatened species: wild amphibians, wild reptiles except sea turtles inhabiting and depending upon coastal fishing waters, and wild invertebrates except invertebrates declared to be pests under the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971. Nothing in this definition is intended to abrogate G.S. 113-132(c), confer jurisdiction upon the Wildlife Resources Commission as to any subject exclusively regulated by any other agency, or to authorize the Wildlife Resources Commission by its regulations to supersede valid provision of law or regulation administered by any other agency.
- (15a) Wild Birds. – Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. The Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources.
- (15b) Repealed by Session Laws 2011-369, s. 2, effective October 1, 2011.
- (16) Wildlife. – Wild animals; wild birds; all fish found in inland fishing waters; and inland game fish. Unless the context clearly requires otherwise, the definitions of wildlife, wildlife resources, wild animals, wild birds, fish, and the like are deemed to include species normally wild, or indistinguishable from wild species, which are raised or kept in captivity. Nothing in this definition is intended to abrogate the exclusive authority given the Department of Agriculture and Consumer Services to regulate the production and sale of pen-raised quail for food purposes.
- (16a) Wildlife Refuge. – An area of land or waters owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission which is closed to the taking of some or all species of wildlife.
- (17) Wildlife Resources. – All wild birds; all wild mammals other than marine mammals found in coastal fishing waters; all fish found in inland fishing waters, including migratory saltwater fish; all inland game fish; all uncultivated or undomesticated plant and animal life inhabiting or depending upon inland fishing waters; waterfowl food plants wherever found, except that to the extent such plants in coastal fishing waters affect the conservation of marine and estuarine resources the Department is given concurrent jurisdiction as to such plants; all undomesticated terrestrial creatures; and the entire ecology supporting such birds, mammals, fish, plant and animal life, and creatures. (1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1979, 2nd Sess., c. 1285; 1987, c. 641, ss. 5, 6; 1991, c. 317, ss. 2, 3; c. 761, ss. 38, 39; 1993, c. 515, s. 6; 1997-142, ss. 2, 3; 1997-261, s. 80; 1997-400, s. 3.5; 1999-339, ss. 1-3; 2003-344, ss. 1-4; 2004-160, ss. 1, 2; 2009-89, s. 2; 2011-369, s. 2; 2013-413, s. 37(a).)

§ 113-130. Definitions relating to activities of public.

The following definitions and their cognates apply to activities of the public in regard to marine and estuarine and wildlife resources:

- (1) Repealed by Session Laws 1979, c. 830, s. 1.
- (1a) Falconry. – The sport of taking quarry by means of a trained raptor.
- (1b) Individual. – A human being.
- (1c) Landholder. – Any individual, resident or nonresident, owning land in this State or, when he is the one principally engaged in cultivating the land, leasing land in this State for agricultural purposes.
- (2) Owner; Ownership. – As for personal property, refers to persons having beneficial ownership and not to those holding legal title for security; as for real property, refers to persons having the present right of control, possession, and enjoyment, whether as life tenant, fee holder, beneficiary of a trust, or otherwise. Provided, that this definition does not include lessees of property except where the lease arrangement is a security device to facilitate what is in substance a sale of the property to the lessee.
- (3) Person. – Any individual; or any partnership, firm, association, corporation, or other group of individuals capable of suing or being sued as an entity.
- (4) Resident. – In the case of:
 - a. Individuals. – One who at the time in question has resided in North Carolina for the preceding six months or has been domiciled in North Carolina for the preceding 60 days. When domicile in the State for a period of 60 days up to six months is the basis for establishing residence, the individual must sign a certificate on a form supplied by the Department or the Wildlife Resources Commission, as the case may be, stating the necessary facts and the intent to establish domicile here.
 - b. Corporations. – A corporation which is chartered under the laws of North Carolina and has its principal office within the State.
 - c. Partnerships. – A partnership in which all partners are residents of North Carolina and which has its principal office in the State.
 - d. Other Associations and Groups Fitting the Definition of Person. – An association or group principally composed of individual residents of North Carolina, with its principal office, if any, in the State, and organized for a purpose that contemplates more involvement or contact with this State than any other state.
 - e. Military Personnel and Their Dependents. – A member of the Armed Forces of the United States stationed at a military facility in North Carolina, the member's spouse, and any dependent under 18 years of age residing with the member are deemed residents of the State, of the county in which they live, and also, if different, of any county in which the military facility is located. A member of the Armed Forces of the United States on active duty outside the State of North Carolina shall be deemed an individual resident of the State for purposes of all the following licenses:
 - 1. Coastal Recreational Fishing Licenses issued pursuant to G.S. 113-174.2(c)(1) and (c)(4).

2. Combination Hunting and Inland Fishing Licenses issued pursuant to G.S. 113-270.1C(b)(1).
 3. Sportsman Licenses issued pursuant to G.S. 113-270.1D(a).
 4. Hunting Licenses issued pursuant to G.S. 113-270.2(c)(1) and (c)(5).
 5. Special Activity Licenses issued pursuant to G.S. 113-270.3(b)(1).
 6. Trapping Licenses issued pursuant to G.S. 113-270.5(b)(1).
 7. Hook-and-Line Licenses issued pursuant to G.S. 113-271(d)(1), (d)(2), and (d)(6)a.
 8. Unified Hunting and Fishing Licenses issued pursuant to G.S. 113-351(c)(1) and (c)(2).
- f. Students. – Nonresident students attending a university, college, or community college in the State.
- (4a) To Buy; Purchase. – Includes a purchase or exchange of property, or an offer or attempt to purchase or exchange, for money or any other valuable consideration.
- (5) To Fish. – To take fish.
- (5a) To Hunt. – To take wild animals or wild birds.
- (6) To Sell; Sale. – Includes a sale or exchange of property, or an offer or attempt to sell or exchange – for money or any other valuable consideration.
- (7) To Take. – All operations during, immediately preparatory, and immediately subsequent to an attempt, whether successful or not, to capture, kill, pursue, hunt, or otherwise harm or reduce to possession any fisheries resources or wildlife resources.
- (7a) To Trap. – To take wild animals or wild birds by trapping.
- (8) Vessel. – Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water. (1965, c. 957, s. 2; 1971, c. 705, s. 3; 1973, c. 1262, s. 18; 1979, c. 830, s. 1; 2005-455, s. 1.21; 2011-183, s. 76; 2013-191, s. 1.)